



DECLARATION FOR PATENT APPLICATION

Atty. Docket No: 14005/407A

#4

I, a below named inventor, hereby declare that my residence, post office address and citizenship are as stated below next to my name. I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **"CEMENTITIOUS GYPSUM-CONTAINING COMPOSITIONS AND MATERIALS MADE THEREFROM,"** the specification of which (check one): ☐ is attached hereto; ☒ was filed on February 7, 1995 as Application Serial No. 08/384,756 and was amended on _____ (if applicable). I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56. I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Claimed

(Number) (Country) (Day/Month/Year Filed)

☐ Yes ☐ No

(Number) (Country) (Day/Month/Year Filed)

☐ Yes ☐ No

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

08/253,333 June 3, 1994 Pending
(Application Serial No.) (Filing Date) (Status-Patented, Pending or Abandoned)

(Application Serial No.) (Filing Date) (Status-Patented, Pending or Abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: I (We) hereby appoint as my (our) attorneys, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Basil P. Mann (18,464)
Alvin D. Shulman (19,412)
Donald J. Brott (19,490)
Owen J. Murray (22,111)
Allen H. Gerstein (22,218)
Nate F. Scarpelli (22,320)
Edward M. O'Toole (22,477)
Michael F. Borun (25,447)
Trevor B. Joike (25,542)

Timothy J. Vezeau (26,348)
Carl E. Moore, Jr. (26,487)
Richard H. Anderson (26,526)
Patrick D. Ertel (26,877)
James P. Zeller (28,491)
William E. McCracken (30,195)
Richard A. Schnurr (30,890)
Anthony Nimmo (30,920)
Christine A. Dudzik (31,245)

Kevin D. Hogg (31,839)
Jeffrey S. Sharp (31,879)
Donald J. Pochopien (32,187)
Martin J. Hirsch (32,237)
James J. Napoli (32,361)
Richard M. La Barge (32,254)
Jeffrey W. Smith (33,355)
Douglass C. Hochstetler (33,710)
Cynthia L. Schaller (34,245)
Robert M. Gerstein (34,824)

Send correspondence to: Cynthia L. Schaller

FIRM NAME	PHONE NO.	STREET	CITY & STATE	ZIP CODE
Marshall, O'Toole, Gerstein, Murray & Borun	312-474-6300	6300 Sears Tower 233 South Wacker Drive	Chicago, Illinois	60606-6402
Full Name of First or Sole Inventor		Citizenship		
Elisha Stav		Israel		
Residence Address - Street		Post Office Address - Street		
116 Capen Boulevard		116 Capen Boulevard		
City (Zip)		City (Zip)		
Amherst 14226		Amherst 14226		
State or Country		State or Country		
New York NY		New York		
Date		Signature		
<input checked="" type="checkbox"/> March 28, 1995		<input checked="" type="checkbox"/> Elisha Stav		

☒ See second page for additional inventor(s)

See reverse for relevant rules & statutes

APPLICABLE RULES AND STATUTES

37 CFR 1.56. DUTY OF DISCLOSURE - INFORMATION MATERIAL TO PATENTABILITY (Applicable Portion)

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentability defines, to make sure that any material information contained therein is disclosed to the Office.

Information relating to the following factual situations enumerated in 35 USC 102 and 103 may be considered material under 37 CFR 1.56(a).

35 U.S.C. 102. CONDITIONS FOR PATENTABILITY: NOVELTY AND LOSS OF RIGHT TO PATENT

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraph (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

35 U.S.C. 103. CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negative by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

35 U.S.C. 112. SPECIFICATION (Applicable Portion)

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Second Joint Inventor, if any <u>Edward A. Burkard</u> 2-00	Citizenship The United States of America
Residence Address - Street 8395 Stahley Road	Post Office Address - Street 8395 Stahley Road
City (Zip) East Amherst 14051	City (Zip) East Amherst 14051
State or Country New York NY	State or Country New York
Date <input checked="" type="checkbox"/> March 28, 1995	Signature <input checked="" type="checkbox"/> <i>Edward A Burkard</i>

Third Joint Inventor, if any <u>Ronald S. Finkelstein</u> 3-00	Citizenship The United States of America
Residence Address - Street 241 Wellingwood Drive	Post Office Address - Street 241 Wellingwood Drive
City (Zip) East Amherst 14051	City (Zip) East Amherst 14051
State or Country New York NY	State or Country New York
Date <input checked="" type="checkbox"/> March 28, 1995	Signature <input checked="" type="checkbox"/> <i>Ronald S Finkelstein</i>